



**CALIFORNIA STATE
PUBLIC WORKS BOARD**

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ NINTH FLOOR ■ SACRAMENTO CA ■ 95814-3706 ■ (916) 445-9694

STATE PUBLIC WORKS BOARD
December 9, 2016

PROPOSED MINUTES

PRESENT:

Ms. Eraina Ortega, Chief Deputy Director, Department of Finance
Mr. Jeff McGuire, Chief Deputy Director, Department of General Services
Mr. Malcolm Dougherty, Director, Department of Transportation

CALL TO ORDER AND ROLL CALL:

Ms. Eraina Ortega, Chairperson of the Board called the meeting to order at 10:00 a.m.
Ms. Patrice Coleman, Executive Assistant for the Board, called the roll. A quorum was established.

MINUTES:

Ms. Lukenbill reported that staff has prepared and reviewed the minutes from the October 14th and November 14th Board meetings and recommends approval of those meeting minutes.

There were no questions or comments regarding the minutes from the Board or public.

CONSENT:

Ms. Lukenbill informed the Board that the Consent Calendar consisted of two items. The two consent items were as follows:

Consent Item 1: Consider approving a reversion for the Natural Resources Agency to return the unexpended balance of the capital outlay appropriation for the San Joaquin Fish Hatchery Expansion project in Fresno County to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Proposition 84).

Consent Item 2: Consider recognizing a scope change and revised project costs for the Department of Corrections and Rehabilitation, Calipatria State Prison Health Care Facility Improvement Project in Imperial County.

Staff recommended approval of the Consent Calendar. There were no questions or comments from the public or the Board regarding the consent items.

A motion was made by Mr. Dougherty and seconded by Mr. McGuire to approve the consent calendar. The consent calendar was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. McGuire voting aye).

ACTION:

The next order of business was to hear three action items, which were presented by Ms. Lukenbill.

Action Item 1: If approved, the requested action would authorize site selection of 16 parcels in Madera, Fresno, Tulare and Kern Counties for the High Speed Train System (HSTS) project.

There were no comments or questions from the Board or public.

Staff recommended approval of the action item.

A motion was made by Mr. Dougherty and seconded by Mr. McGuire to approve the Action Item. The Action Item was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. McGuire all voting aye).

Action Item 2: If approved, the requested action would rescind three Resolutions of Necessity authorizing the use of eminent domain to acquire properties in Fresno, Kings and Kern Counties. Specifically, the rescissions included:

- Fresno Rescue Mission Property: On June 13, 2016, the Board adopted Resolution of Necessity 2015-0062, authorizing the use of eminent domain to acquire a portion of the Fresno Rescue Mission property.
- Melga Canal Property: On May 13, 2016, the Board adopted Resolution of Necessity 2015-0182, authorizing the use of eminent domain to acquire a portion of the Melga Canal property.
- Global Ag Properties 1 Property: On July 8, 2016, the Board adopted Resolution of Necessity 2015-0090, authorizing the use of eminent domain to acquire a portion of the Global Ag Properties 1 property.

Mr. Dougherty asked if it's correct that some resolutions will go away if they are no longer needed or if they will be modified. Ms. Lukenbill acknowledged that his statement was correct.

Ms. Ortega asked for any public comments on the three rescissions. There were none.

Staff recommended approval of the action item.

A motion was made by Ms. Ortega and seconded by Mr. McGuire to approve the Action Item. The Action Item was approved by a 3-0 vote (Ms. Ortega, Mr. McGuire, and Mr. Dougherty all voting aye).

Action Item #3: If approved, the action would adopt 12 RON authorizing the use of eminent domain to acquire properties in Madera, Fresno and Kings Counties, totaling approximately 80 acres.



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Ms. Lukenbill presented Action Item #3 to the Board, and Joann Georgallis, acting as Counsel to the Board on eminent domain issues, presented the Resolutions of Necessity.

Ms. Georgallis addressed the board, requesting to adopt all 12 resolutions presented. She stated letter form challenges (objection letters) were submitted. She noted that the Turini objection letter is basically a form letter has been sent by the same law firm for the last two years, and that there is no factual basis for the challenge of the Resolution of the Turini parcels. Additionally, there was no explanation as to why the various code sections cited in the letter apply. Ms. Georgallis requested to adopt the Resolution of Necessity (RON), because all parcels are necessary for the project. Ms. Georgallis also stated that a specific 01-01 parcel on the Turini property was designated as an access parcel, and it was determined by an appraiser to be an uneconomic remnant.

An objection letter was also submitted on behalf of Fresno Rescue Mission (FRM). The objection letter challenged the adoption of the Resolution because of an objection to the early possession date. However, Ms. Georgallis noted that is not the basis for the Board's consideration, rather it's for the court's consideration. All objections raised were related to early possession that should be addressed after a RON and court action is obtained. Ms. Georgallis stated that FRM requested a delay of adoption of the RON. However, she noted that it would not change the possession issue. Once the RON is adopted, they can file a lawsuit and continue negotiations to resolve the possession issue.

Ivor Samson, counsel to FRM, then addressed the Board. Mr. Samson stated that taking properties on the east side, which includes the chapel, kitchen, and dormitories destroys the functionality of the FRM. Mr. Samson noted that there have been a number of discussions for at least one year, about the need to build temporary structures on the west side of G Street, while permanent structures are being built, the Mission can continue to operate seamlessly. Mr. Samson acknowledged cooperation with High Speed Rail and the City of Fresno to obtain a Possession and Use Agreement. Mr. Samson noted another necessity for this transaction is an air space lease from CalTrans. Due to the Highway 41 overpass going across G Street, an airspace lease is needed in order to build sidewalks and and to lay utilities to connect the temporary FRM facilities. FRM staff had been told for months that an airspace lease was forthcoming. However, on November 28, the item was pulled from the December 8 California Transportation Commission (CTC) agenda without informing FRM representatives. High Speed Rail claimed they can get a three year lease at a regional level or negotiate for a long-term lease issued by CTC. Mr. Samson stated that a three-year lease is unacceptable because it is not a prudent investment and will create more issues. He noted that an airspace lease is needed in order to build the temporary buildings; therefore authorizing a RON today is not compatible with the greatest public good and the least private injury. Mr. Samson provided a copy of a letter he wrote to Dan Richard, Chairman of High Speed Rail Board of Directors and to the Board. Mr. Samson requested to have the letter incorporated as part of the administrative record. Mr. Samson respectfully requested the Board to not issue the RON at this time.

Mr. Don Grebe, Deputy Director of Real Estate for HSR, spoke in response to Mr. Samson's remarks. Mr. Grebe indicated that the fastest way to start construction is to get a shorter-term lease in place and get it approved, followed by the application for a long-term lease. Ms.

Georgallis added that prior to negotiation, CTC approval is needed, as well as a fair rental value appraisal, both of which take a few months to receive.

Mr. Dougherty stated that he is familiar with the FRM and respects the work they do. He asked what physical features are going to be related to the airspace lease. Mr. Samson responded that there will be a retaining wall, a sidewalk, and utilities. Mr. Dougherty questioned whether these items would require an airspace lease versus a permit. Mr. Grebe indicated that there had been no discussion of pursuing a permit instead of a lease. Mr. Dougherty asked whether it was still desirable to pass the RON while negotiations on outstanding issues continue. Mr. McGuire also questioned whether the adoption of a RON at this time will help or inhibit the Mission. Ms. Georgallis stated that she believes that adoption of the RON will encourage the process to move forward with the relocation, lease agreements, and the airspace lease. Mr. Samson disagreed with Ms. Georgallis, stating that the possibility of being in litigation with HSR and the Mission would delay the necessary items even more. Mr. Samson was concerned that if the RON is adopted and negotiations with CalTrans are prolonged, the HSR will have the administrative foundation to file a complaint and/or file a lawsuit.

Mr. Dougherty asked if the airspace lease was going to be on the agenda or in place at the next CTC meeting. Mr. Grebe stated that the item would be added to the next CTC meeting, noting that the lease must be in place in order to complete the FRM relocation.

Ms. Ortega reminded the Board that the only reason the FRM RON was being rescinded, with a new RON considered for adoption today is because of a design change. She noted that delaying the RON adoption further doesn't make sense as nothing has changed in the negotiations with FRM.

Mr. Dougherty asked a follow-up question on the Turini property. He asked if the Turini 01-01 parcel is necessary for the project and is part of the Resolution. Ms. Georgallis responded stating that the Turini 01-01 parcel is authorized under statute and the appraiser determined that it is an economic remnant.

Ms. Ortega asked if there was any additional comments any of the proposed RONs. There were no other comments from the Board or Public.

A motion was made by Mr. Dougherty and seconded by Mr. McGuire to approve the Action Item. The Action Item was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. McGuire all voting aye).

OTHER BUSINESS: None

REPORTABLES:

Ms. Lukenbill stated staff reported that the reportables were available in the Agenda with Analysis and in the Board's briefing packages. There were no questions or comments on the reportables.

NEXT MEETING:

Ms. Ortega stated the next Board meeting is scheduled for Friday, January 13 at 10:00 a.m. in Room 113 at the State Capitol.



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Ms. Ortega asked if there were any comments or questions from the Board or the public.
Seeing none, the meeting was adjourned at 10:45 a.m.